

designee, from determining any question arising under the program or from reversing or modifying any determination made by PSD, KCMO, a State committee, or a county committee.

(f) The Deputy Administrator may waive or modify non-statutory deadlines and other program requirements of this part in cases where lateness or failure to meet other requirements does not adversely affect the operation of the program. Participants have no right to seek an exception under this provision. The Deputy Administrator's refusal to consider cases or circumstances or decision not to exercise the discretionary authority of this provision will not be considered an adverse decision and is not appealable.

#### § 760.1302 Definitions and acronyms.

The following definitions apply to this subpart. The definitions in parts 718 and 1400 of this title also apply, except where they may conflict with the definitions in this section.

*County office or FSA county office* means the FSA offices responsible for administering FSA programs in a specific areas, sometimes encompassing more than one county, in a State.

*Dairy operation* means any person or group of persons who, as a single unit, as determined by FSA, produce and market milk commercially produced from cows, and whose production facilities are located in the United States. In any case, however, dairy operation may be given by the agency the same meaning as the definition of dairy operation as found in part 1430 of this title for other dairy assistance programs.

*Department or USDA* means the U. S. Department of Agriculture.

*Deputy Administrator* means the Deputy Administrator for Farm programs (DAFP), FSA, or a designee.

*Eligible production* means milk from cows that was produced during February through July 2009, by a dairy producer in the United States and marketed commercially by a producer in a participating State.

*Farm Service Agency or FSA* means the Farm Service Agency of the USDA.

*Fiscal year or FY* means the year beginning October 1 and ending the following September 30. The fiscal year

will be designated for this subpart by year reference to the calendar year in which it ends. For example, FY 2009 is from October 1, 2008, through September 30, 2009 (inclusive).

*Marketed commercially* means sold to the market to which the dairy operation normally delivers whole milk and receives a monetary amount and in any case this term will be construed to allow the use of MILC records in making DELAP payments.

*Milk handler* means the marketing agency to or through which the dairy operation commercially markets whole milk.

*Milk marketing* means a marketing of milk for which there is a verifiable sales or delivery record of milk marketed for commercial use.

*Participating State* means each of the 50 States in the United States of America, the District of Columbia, and the Commonwealth of Puerto Rico, or any other territory or possession of the United States.

*Payment quantity* means the pounds of milk production for which an operation is eligible to be paid under this subpart.

*Producer* means any individual, group of individuals, partnership, corporation, estate, trust association, cooperative, or other business enterprise or other legal entity, as defined in 7 CFR 1400.3, who is, or whose members are, a citizen of or legal resident alien in the United States, and who directly or indirectly, as determined by the Secretary, shares in the risk of producing milk, and who is entitled to a share of the commercial production available for marketing from the dairy operation. This term, and other terms in this subpart, will in any case be applied in a way that allows MILC records to be used to make DELAP payments.

*United States* means the 50 States of the United States of America, the District of Columbia, the Commonwealth of Puerto Rico, and any other territory or possession of the United States.

*Verifiable production records* means evidence that is used to substantiate the amount of production marketed commercially by a dairy operation and its producers and that can be verified by FSA through an independent source.